

## Securities and Exchange Commission

## § 202.4

### § 202.3a Instructions for filing fees.

Payment of filing fees specified by the following rules shall be made according to the directions listed in this part: § 230.111 (17 CFR 230.111), § 240.0-9 (17 CFR 240-0.9), § 260.7a-10 (17 CFR 260.7a-10), and § 270.0-8 (17 CFR 270.0-8). All such fees payable by electronic filers (§ 232.11(e) of this chapter), including those pertaining to documents filed in paper pursuant to a hardship exemption, shall be remitted to the U.S. Treasury designated lockbox depository at the Mellon Bank in Pittsburgh, Pennsylvania, by wire transfer, mail or hand delivery. Fees payable by paper filers may be either remitted to the lockbox depository, or remitted directly to the Commission at 450 Fifth Street NW., Washington DC 20549. Personal checks cannot be accepted for payment of fees. To ensure proper posting, all filers must include their assigned CIK account numbers on fee payments. If a third party submits a fee payment, the fee payment must specify the account number to which the fee is to be applied. Filing fees paid pursuant to Section 6(b) of the Securities Act of 1933, including fees paid pursuant to section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f)) or pursuant to Section 307(b) of the Trust Indenture Act of 1939 should be designated as "restricted," except that filing fees paid with respect to registration statements filed pursuant to Rule 462(b) (§ 230.462(b) of this chapter) should be designated as "unrestricted." Specific instructions on the various methods of making fee payments to the lockbox depository are as follows:

(a) *Wire transfer*: Those who wish to wire fee payments may use any bank or wire transfer service to initiate the transaction. All remitters must follow standard Federal Reserve instructions to ensure that fees transferred are received and identifiable. Specific information required for transmission to the Mellon Bank is listed below. Where an item is in **BOLDFACE TYPE**, the entry should be made exactly as indicated. Where an item is in *italics*, the filer-specific information should be included.

(1) Receiving Bank's ABA Number (field two); 043000261

(2) Type Code (field three); 1040

(3) Name of registrant and name of payor, if different (field nine): *ORG=registrant's name/payor's name (if different)*

(4) Receiving Bank's Name (field ten): MELLONBANK

(5) Transaction Code (field eleven): CTR/

(6) Beneficiary of payment (field twelve): BNF=SEC/AC-9108739/WRE

(7) Reference for Beneficiary (field thirteen): *RFB=account number to which the fee is to be applied*

(8) Payment Details (field fourteen): To designate funds as restricted: OBI=R, Otherwise: OBI=N.

(b) *Mail and hand delivery*: Checks and money orders are to be made payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. The account number and a notation of "R" (restricted), as applicable, are to be written on the front of the check or money order. Fees transmitted by mail must be addressed to the Securities and Exchange Commission, Post Office Box 360055M, Pittsburgh, Pennsylvania 15252. Fees that are hand delivered must be brought to the Mellon Bank, 27th floor, Three Mellon Bank Center, Fifth Avenue at William Penn Way, Pittsburgh, PA. Hand deliveries will be accepted weekdays from 7:30 a.m. to 4:00 p.m. (eastern time). No deliveries can be made on Federal holidays. All hand deliveries must be in a sealed envelope, with the Commission's lockbox number, 360055M, and the Commission's account number, 910-8739, written on the outside. Cash payments must be accompanied by a separate sheet of paper providing the same information specified for checks and money orders.

[58 FR 15010, Mar. 18, 1993, as amended at 60 FR 26613, May 17, 1995; 61 FR 49959, Sept. 24, 1996; 62 FR 47938, Sept. 12, 1997]

### § 202.4 Facilitating administrative hearings.

(a) Applications, declarations, and other requests involving formal Commission action after opportunity for hearing are scrutinized by the appropriate division for conformance with applicable statutory standards and Commission rules and generally the filing party is advised of deficiencies.

Prior to passing upon applications and declarations the Commission receives the views of all interested persons at public hearings whenever appropriate; hence, any applicant or declarant seeking Commission approval of proposed transactions by a particular time should file his application or declaration in time to allow for the presentation and consideration of such views.

(b) After the staff has had an opportunity to study an application or declaration, interested persons may informally discuss the problems therein raised to the extent that time and the nature of the case permit (e.g., consideration is usually given to whether the proceeding is contested and if so to the nature of the contest). In such event, the staff will, to the extent feasible, advise as to the nature of the issues raised by the filing, the necessity for any amendments to the documents filed, the type of evidence it believes should be presented at the hearing and, in some instances, the nature, form, and contents of documents to be submitted as formal exhibits. The staff will, in addition, generally advise as to Commission policy in past cases which dealt with the same subject matter as the filing under consideration.

(c) During the course of the hearings, the staff is generally available for informal discussions to reconcile bona fide divergent views not only between itself and other persons interested in the proceedings, but among all interested persons; and, when circumstances permit, an attempt is made to narrow, if possible, the issues to be considered at the formal hearing.

(d) In some instances the Commission in the order accompanying its findings and opinion reserves jurisdiction over certain matters relating to the proceeding, such as payment of fees and expenses, accounting entries, terms and conditions relating to securities to be issued, and other matters. In such cases, upon receipt of satisfactory information and data the Commission considers whether further hearing is required before releasing jurisdiction.

#### § 202.5 Enforcement activities.

(a) Where, from complaints received from members of the public, communications from Federal or State agen-

cies, examination of filings made with the Commission, or otherwise, it appears that there may be violation of the acts administered by the Commission or the rules or regulations thereunder, a preliminary investigation is generally made. In such preliminary investigation no process is issued or testimony compelled. The Commission may, in its discretion, make such formal investigations and authorize the use of process as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of the federal securities laws or the rules of a self-regulatory organization of which the person is a member or participant. Unless otherwise ordered by the Commission, the investigation or examination is non-public and the reports thereon are for staff and Commission use only.

(b) After investigation or otherwise the Commission may in its discretion take one or more of the following actions: Institution of administrative proceedings looking to the imposition of remedial sanctions, initiation of injunctive proceedings in the courts, and, in the case of a willful violation, reference of the matter to the Department of Justice for criminal prosecution. The Commission may also, on some occasions, refer the matter to, or grant requests for access to its files made by, domestic and foreign governmental authorities or foreign securities authorities, self-regulatory organizations such as stock exchanges or the National Association of Securities Dealers, Inc., and other persons or entities.

(c) Persons who become involved in preliminary or formal investigations may, on their own initiative, submit a written statement to the Commission setting forth their interests and position in regard to the subject matter of the investigation. Upon request, the staff, in its discretion, may advise such persons of the general nature of the investigation, including the indicated violations as they pertain to them, and the amount of time that may be available for preparing and submitting a statement prior to the presentation of a staff recommendation to the Commission for the commencement of an